

NEBRASKA OFFICE OF DISPUTE RESOLUTION



Ninth Annual Report
July 2000 - June 2001

THE NEBRASKA DISPUTE RESOLUTION ACT OF 1991

The Nebraska Dispute Resolution Act of 1991
Approved unanimously by the Nebraska Legislature
Signed into law by Governor Ben Nelson

25-2902. Legislative Findings. The Legislature finds that:

- (1) The resolution of certain disputes can be costly and time consuming in the context of a formal judicial proceeding;
- (2) Mediation of disputes has a great potential for efficiently reducing the volume of matters which burden the court system in this state;
- (3) Unresolved disputes of those who do not have the resources for formal resolution may be of small social or economic magnitude individually but are collectively of enormous social and economic consequences;
- (4) Many seemingly minor conflicts between individuals may escalate into major social problems unless resolved early in an atmosphere in which the disputants can discuss their differences through a private informal yet structured process;
- (5) There is a need in our society to reduce and improve relationships between people in conflict which has a long-term benefit of a more peaceful community of people;
- (6) There is a compelling need in a complex society for dispute resolution whereby people can participate in creating comprehensive, lasting and realistic resolutions to conflicts;
- (7) Mediation can increase access of the public to dispute resolution and thereby increase public regard and usage of the legal system; and
- (8) Nonprofit dispute resolution centers can make a substantial contribution to the operation and maintenance of the courts of this state by preserving the court's scarce resources for those disputes which cannot be resolved by means other than litigation.

25-2920. Director; report. The director shall report annually to the Chief Justice, the Governor, and the Legislature on the implementation of the Dispute Resolution Act. The report shall include the number and types of disputes received, the disposition of the disputes, any problems encountered, any recommendations to address problems, and a comparison of the cost of mediation and litigation.

NEBRASKA OFFICE OF DISPUTE RESOLUTION NINTH ANNUAL REPORT July 2000 - June 2001

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EXECUTIVE SUMMARY

The Office of Dispute Resolution (ODR) was created in 1991 with the passing of the Dispute Resolution Act and was established under the Administrative Office of the Courts. ODR, with input from an Advisory Council, oversees the development of dispute resolution and collaborative problem solving programs in Nebraska. The office works with six non-profit mediation centers to provide services to the entire state. The public/private partnership creates an efficient, effective and responsive system that enhances existing structures and fosters new



Wendy Hind, Director

One of our biggest successes for this fiscal year was that ODR and the mediation centers teamed up with a grant from the National Association for Community Mediation (NAFCM) for a new case tracking system. The centers are all collecting the same data, in the same way, and sending it electronically to ODR on a quarterly basis. This new system enables us to collect a wide variety of statistics in a very efficient manner. We will also be participating in a national study based on our use of this system through NAFCM.

We are also pleased to announce that our webpage is up and running. We are still fine-tuning the layout, but it is full of useful information. It contains background information on ODR, training opportunities, the annual report, and links to various other alternative dispute resolution sites. You can find the webpage at: <http://court.nol.org/odr/>

Another new development for ODR during fiscal year 2000-2001, was the passage of LB46 by the legislature. This bill is called the settlement escrow bill. Its function is to offer citizens of Nebraska who file monetary only civil actions another means of settling their dispute without going to court. It involves a confidential process of submitting an offer of settlement to ODR before going to trial. The program will officially begin September 2001.

The State appropriation to each center continued this fiscal year at \$45,000. The centers continue to maximize their use of these dollars, especially in light of the fact that 91% of their clients earn less than \$10,000 a year. While some cases are supplemented by grants or contracts, many are not.

Total caseload for fiscal year 2000-2001 was 1,428. This was up from last year's caseload of 1,104. Family cases continue to dominate the overall caseload of the centers, with community cases following in a close second. Restorative Justice also continues to be a strong area of service. In fiscal year 2000-2001, those cases that met at the table for mediation had an 82% resolution rate (either full or partial). At 38%, the courts continue to be the single largest source of statewide referrals. However, the entire legal system represents 59% of all referrals.

Year after year Nebraska's center affiliated mediators continue to demonstrate an amazing commitment to mediation. This fiscal year the centers had 283 active volunteers, contributing a total of 30,081 hours of service! We cannot thank them enough for sharing their expertise to help solve conflicts in Nebraska.

Thank you for another year of opportunity to help resolve conflict in Nebraska. In our small way, we strive everyday to help make this world a more peaceful place to live.

“Some amount of conflict is inevitable in every society. The key question is how that conflict gets resolved.

America’s community mediation programs provide an important piece of the answer in this country.”

Former U.S. Attorney General, Janet Reno

ODR OVERVIEW

The 1991 Dispute Resolution Act established the Office of Dispute Resolution (ODR) in the Administrative Office of the Courts. ODR, with input from the ODR Advisory Council, oversees the development of dispute resolution and collaborative problem solving programs in Nebraska, assisting in the development of, and working collaboratively with, Nebraska's nonprofit mediation centers. The public-private cooperative effort creates an efficient, effective and responsive system that enhances existing structures and fosters new opportunities to prevent and resolve conflict.

Over the last nine years, a sustainable infrastructure has been created through the formation of mediation centers, the establishment of program policies and procedures, the creation of nationally recognized training programs with highly-regarded trainers, the growth of a pool of committed, trained, and experienced mediators, and targeted efforts for public education and program development. Centers handle an ever-expanding case and project load, and meet the demand for training. This development is standardized statewide and yet responsive to the unique needs of the six regions served by nonprofit centers.

The ODR system operates as a collaboration between ODR, the ODR Advisory Council, and the mediation centers. Through shared decision-making, programming, training, and fund-raising, this integrated system has become a well-respected statewide dispute resolution service network known for its accessibility and competence.

The Dispute Resolution Act guarantees full access to mediation regardless of income. At the centers, no one is denied mediation because of an inability to pay. For those at 125% of the poverty level or above, a fee is charged using a sliding scale based on household size and income.

In some cases an administrative fee is charged. This can be reduced or waived for low-income clients. Small claims cases are mediated for no charge or for a nominal fee per party. Cases referred under contract, such as those through programs of the Department of Education and the Department of Health and Human Services, are paid by those departments at little or no cost to participants.

ODR ADVISORY COUNCIL

The Office of Dispute Resolution works with the ODR State Advisory Council to provide over-sight and support for the statewide system. Membership, by statute, seeks to reflect the geographic, economic, professional, and cultural differences within our state. Each year, three terms end and the Nebraska Supreme Court appoints three new members to the Council. The Council meets quarterly, rotating between the ODR-approved mediation centers, to address issues of statewide importance relating to dispute resolution development, funding, public awareness, policy and procedures.

Members of the 2000-2001 ODR Advisory Council

Hon. Daniel Beckwith, Council Chair, Dodge County Court Judge (Fremont)
James E. Gordon, Council Vice-Chair, Attorney and Mediator (Lincoln)
Joe Wright, Secretary, Attorney and Mediator (North Platte)
Marian Beethe, Administrator, Farm Mediation Service and Beginning Farmer Program (Lincoln)
Anne Yu Buettner, Mid-Plains Center for Behavioral Healthcare Services (Grand Island)
Robert Kirby, Attorney and Mediator (Omaha)
Ellen Kohtz, Albion Public Schools (Albion)
Hon. Patricia Lamberty, Douglas County District Judge (Omaha)
Maria Medrano-Nels, Nebraska Library Commission (Lincoln)
John Miller, Attorney and Mediator (Blair)
Michael Schirber, Attorney and Mediator (Papillion)

Ex Officio Members

Betsy Kosier, Executive Director, The Mediation Center (Lincoln)
Mary Lee Brock, Executive Director, Concord Center, formerly The Community Mediation Center (Omaha-Metro)

THE DISPUTE RESOLUTION CENTERS - HOW SERVICES ARE DELIVERED

Six state-approved mediation centers serve every county across Nebraska. The centers have from one to six staff persons, plus a pool of volunteer mediators and paid mediators. Each center is a private, nonprofit corporation governed by a board of directors drawn from the region served. The six centers have formed the Nebraska Mediation Center Association (NMCA) to deliver mediation training to the ODR Training Institute.

Center policies and procedures comply with the Dispute Resolution Act, the ODR Court Rules, and ODR Program Policies and Procedures. Case management, data collection, and quarterly reporting is standardized to allow for statewide referral networks, collaborative projects, and comprehensive evaluations. Each center is distinctively different, with distinguishing characteristics that reflect each center's own region, resources, and talents.

CENTER FOR CONFLICT RESOLUTION (CCR)

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Denise Wright

Kim Engel

Jan Johnson

Jim Bovee

Tom Nye

Lynne Lange



Front Row: Mary Darveau, Sarah Bartlett, Dawn Swanson

Back Row: Lori Burkey, Margaret Schaefer, Michelle Coolidge

Staff:

Lori Burkey, Executive Director

Dawn Swanson, Project Director (No longer staff)

Sarah Bartlett, Mediator Coordinator

Michelle Coolidge, Case Manager

Mary Darveau, Northern Satellite Office Coordinator

Margaret Schaefer, Eastern Satellite Office Coordinator

CCR bid a bittersweet farewell to Dawn Swanson in February of the fiscal year. Dawn was appointed by Governor Mike Johanns to serve as Co-Administrator, Protection and Safety for Nebraska Health and Human Services. Although Dawn is no longer a member of our staff, the state system continues to work with Dawn through contracts with HHS. Our loss has been a valuable gain for children and families in Nebraska.

CCR has been moving toward a number of changes and improvements in the program. Staff roles continue to be defined, policies and procedures have progressively been updated, and technology continues to be integrated and honed to augment our program. Additionally, we have restructured our Board of Directors and have developed committees to aid in CCR's planning. Committees were formed in the areas of Finance, Outreach and Education, Board Recruitment and Education, and Mediator Development. These committees, as well as the workshops we conducted to further orient our board, have contributed to a better sense of common purpose for our organization. We are committed to continually clarifying our role in the communities we serve and providing a consistent and competent service to our constituents.

CCR contracted with PAVE (People Against Violent Environments) as facilitator for the youth group. An adult PAVE group formed in response to the Columbine tragedy and a group of youth in the Scottsbluff Public Schools decided they wanted to have a voice as well. Their role has primarily been to mentor younger youth.

Through a grant from Family Preservation and Family Crisis Intervention Coalition, CCR conducted a series of youth Study Circles in Scotts Bluff County. Dialogue for the groups focused around the topic of healthy relationships.

Lori Burkey, who has served on the National Association for Community Mediation (NAFCM) board since 1999, was elected Co-Chair of the organization this year. As a center, CCR is making strong connections in all of our local communities, the state, and nationally in the field of conflict resolution.

CENTRAL MEDIATION CENTER (CMC)

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Bob Neben, Secretary/Treasurer

Steve Batty

Mike Tye

Rebecca Salmon

Anne Yu Buettner

Jose' Zapata



Denise Haupt, Paty Reyes-Covalt, Carol Dart, Lynne Favinger

Staff:

Lynne Favinger, Executive Director

Carol Dart, Program Director

Paty Reyes-Covalt, Project Coordinator

Denise Haupt, Office Services Coordinator

The past year has been one of growth for CMC. A large increase in open cases during the year necessitated the hiring of one more staff member. In July 2001 Paty Reyes-Covalt, a Certified Social Worker, became our full-time Project Coordinator. Paty had been a volunteer mediator with CMC since taking basic and family mediation training in 1996. In addition, Paty is originally from Mexico so we now have a Spanish-speaking mediator on staff.

With Paty joining our team, two major changes happened to CMC. First, a four-person staff required moving to a different location. So after spending six years renting two offices inside the Tye Law Firm building, we found an address to call our own.

Our new location at Northridge Plaza, 3720 Avenue A, Suite G, in Kearney, contains a reception area, four offices, a mediation room, a break room and a large training room.

There is also a storage room that can be finished to make our fifth office for future growth. Several small donations have come from the community to help with furnishings but much more is needed so the process of making it into the professional office we want to have will take more time. But the signs are up so we are officially in business.

Second, we can now offer all of our services in Spanish. Cellular One has donated a cell phone and usage for Paty so she will be available to Spanish speaking people as she travels throughout our 31-county area. Paty will do case management of all cases requiring Spanish. In some cases, she will translate rather than mediate. Paty will work with our other Spanish-speaking mediator and is working to recruit more bilingual mediators also.

We recently fulfilled our two-year commitment to the Family Group Conferencing pilot project funded by the Center on Children, Family, and the Law at UNL. The success of the project in our area, as well as two other rural mediation centers, enabled us to gain a contract with Nebraska Health and Human Services to provide Family Group Conferencing with both the Central and Southwest HHS Service Areas starting July 1, 2001. Many trainings about FGCs will be held for HHS staff as well as other juvenile service providers.

Small claims mediation is available in 14 counties, with plans to expand that number during the year. This service is provided free of charge to all participants.

Volunteer mediators and county offices continue to provide us with case information so parties can be notified about the service.

Juvenile Accountability and Incentive Block Grant funds from the Nebraska Crime Commission allowed us to mediate juvenile cases when the juvenile was on parole and probation. It also gave us the opportunity to provide conflict resolution training to these juveniles and agency staff that provide service to them. Training programs were given at juvenile day reporting centers in Grand Island and Lexington as well as to many juvenile service providers across the area.

CMC continues to participate in several other regional and statewide contracts. These include: Special Ed mediation through the Nebraska Department of Education, Access and Visitation through Nebraska Health and Human Services, mediation for UNL employees, Employment First, and other agency contracts.

Becoming a known, respected, presence throughout our 31 counties is a major goal that we are trying to attain by meeting with many different agencies and groups. The stability of our staff throughout the past year has helped us toward this goal also and we look forward to maintaining that stability in the coming years.

CONCORD CENTER

(formerly The Community Mediation Center)

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Creating pathways from conflict to peace.

Concord Center creates pathways of constructive dialogue and conflict resolution through consensus building activities of mediation, facilitation and education.

Board of Directors:

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Jill Fenner

Charlene Fletcher

Grant Story

Sally Waters

Lorin Galvin

Ann Moshman

Michael O'Hara



Mary Lee Brock;
not shown Debra Blue

Staff:

Mary Lee Brock, Executive Director

Debra Blue, Mediation Coordinator

The focus of 2000-2001 fiscal year was to strategically build infrastructure to serve the residents of Douglas and Sarpy counties. In September 2000, Concord Center moved into office space at 3861 Farnam Street in mid-town Omaha. The office affords space for administrative functions, mediation, large group facilitation, board meetings and mediator in-service training. Mediators and community partners celebrated the "new-home" at an Open House in November.

Debra Blue joined the staff in early October as Mediation Coordinator. In December the Board of Directors, staff and invited affiliated mediators participated in a day-long strategic planning session. Goals for this next fiscal year include initiatives to best serve the residents of Douglas and Sarpy counties such as implementing a marketing plan and strengthening community partnerships.

Our center's name change came from a desire for our name to better reflect our broader mission. The Community Mediation Center changed its name to Concord Center. Roget's Thesaurus lists synonyms for concord as accord, harmony, agreement, assent, rapport, congruence, union, unity, peace, alliance, compact, treaty and understanding all words that embody our mission.

While building infrastructure, Concord Center developed an active mediation case load particularly in the areas of family, employment first, and federal mediation. Group facilitation is a growing area of the center. Interesting projects include contracting with Creighton Law School to provide experienced mediators to coach law students who were training as mediators and contracting with the City of Omaha to coordinate a Speakers Bureau promoting awareness of hate crimes in our community.

After a productive pilot project and building upon the success of other centers across the state, Concord Center and the Nebraska Department of Health and Human Services are pleased to offer Family Group Conferencing (FGC) to families served by the Eastern Service Area of Douglas and Sarpy counties. To learn more about best practices nationally, Mary Lee Brock traveled to California with two Douglas County juvenile judges and an HHS administrator to visit the Santa Clara County Family Group Conferencing program. Mary Lee Brock and Charlene Fletcher, sponsored by The Center for Children Families and the Law, attended the American Humane Association FGC Roundtable in Chapel Hill North Carolina.

THE MEDIATION CENTER (TMC)

Resources for Collaborative Decision Making

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Edith Hayes, Program Coordinator

Paul Ladehoff, Program Coordinator

Rebecca Hackbart, Business Manager/
Case Manager

Becky J. Anderson, Case Manager/
Mediation Coordinator

Lani L. Trisler, Program Support Specialist



Edith Hayes, Betsy Kosier, Becky Anderson,
Becky Hackbart, Lani Trisler, Paul Ladehoff

The impact of services provided in Lancaster County by The Mediation Center (TMC) was again broad and diverse this past year. Issues affecting families remained the most prevalent topic for mediation, and the addition of Family Group Conferencing cases, referred through Nebraska's Department of Health and Human Services, as well as a statewide contract with the University of Nebraska-Lincoln contributed to a greater variety of cases this year. TMC experienced a drop in the number of cases opened this past year but saw a significant jump (11%) in the number of opened cases going to mediation. In spite of the challenge of major courthouse remodeling, TMC handled over one hundred cases through its Small Claims Court project. TMC now draws from a pool of 103 mediators who maintain their competency through frequent center-sponsored continuing education programs.

The majority of center funding this year came from program grants and contracts for services. Becoming an active member of Community Services Fund, a local federation of organizations that cooperate to raise funds through worksite campaigns, also offered a new source of revenue and an excellent mechanism for public visibility. Much of TMC's capacity has been directed toward project development and implementation, particularly in the areas of Family Group Conferencing, court-connected parent education classes for families experiencing divorce, community and youth violence prevention initiatives, and community-wide promotion of collaborative principles through training, outreach, and consulting. Throughout the year, TMC's staff and board also made a significant commitment to organizational development to ensure that services will be readily available when requested and that TMC is strategically poised to respond to opportunities and challenges as they arise.

NEBRASKA JUSTICE CENTER (NJC)

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Left to right: Louis LaRose, Debora Brownyard, Kathy Morgan, Rita Dunn, Danelle Wellman, Kristin Ostrom

Staff:

Debora Brownyard, Executive Director

Rita Dunn, Administrative Assistant

Kathy Morgan, Case Manager

Danelle Wellman, Program Assistant

Louis LaRose, Tribal Peacemaking

Kristin Ostrom, Director, Fremont

Satellite Office

1. New Voices Tribal Peacemaking Initiative: (A) Louis LaRose, Program Specialist for NJC's Tribal Peacemaking project, and Debora Brownyard, NJC Executive Director, provided a series of Basic Mediation Training events for the Winnebago Tribe during this year. In total, 57 individuals have participated in the training. (B) Louis and Danelle Wellman, NJC's case manager for special projects, have been working with the Winnebago Tribal Court and the many trained affiliated tribal mediators to modify tribal case management to make it more responsive to community needs. Danelle is at the Winnebago Tribal Court each week to take court mediation referrals and provide case management. (C) Louis has provided peacemaking information and facilitation services for members of the Omaha, Winnebago, Santee, Ponca and other regional tribes.
2. Family Group Conferencing: (A) Statewide Initiative: Many activities took place this year in regard to statewide FGC initiatives. Some of the activities included drafting statewide FGC policies and procedures; revising and updating the FGC Coordinator Training Manual; and working with SENMC and TCMC staff and FGC Coordinators as a consultant on FGC cases. (B) Dodge County Pilot FGC Project: NJC worked on seven FGC cases during the year, with three of them meeting for a full conference. FGC Coordinators Cathy Saeger, Kristin Ostrom, and Debora Brownyard were involved with these cases as well as NJC's FGC case manager Danelle Wellman.
3. Fremont Area Mediation Office: In June Nebraska Justice Center opened a satellite office in Fremont to serve Dodge County and surrounding counties. The community of Fremont has the largest population in NJC's service area. NJC contracted with mediator and former board member Kristin Ostrom to open the office and begin work with local organizations, government, and community members. The Fremont Area Community Foundation granted NJC \$2,000 as start-up funds to support this effort. Kristin's efforts will initially focus on juvenile justice, child welfare, and special education matters. Judge Daniel Beckwith, Board Chair Richard Register and Kristin have contributed countless hours to this initiative.
4. Facilitations: (A) In late May, NJC Staff and contract recorders traveled to Sioux Falls, South Dakota to work with the Missouri River Basin Association, a group of ten states and an Indian tribal representative organization to facilitate a half-day regional conference on designing a "Recovery Committee" to address endangered species associated with the Missouri River and the Army Corps of Engineers' River Master Plan. Approximately 15 different stakeholder groups attended represented by about 80 people. (B) During the year, staff and facilitators provided intensive services to two church groups, a community economic development group, a community-law enforcement task force, and several workplace groups.
5. Mediation Cases: NJC continues to actively serve citizens within its 24-county region, providing services to over 600 individuals. Over half of its 165 cases involved family, divorce, parenting related matters, many of which were funded by the Nebraska Health and Human Services Access and Visitation funds. During the past year, over half of the clients reporting financial data show household income of less than \$29,999 per year. About 7% of the cases included Native American clients, 1% African American and the remainder Caucasian.
6. 2001: A Peace Odyssey Conference: NJC staff members Rita Dunn and Deb Brownyard were active members of the Conference Planning Committee, and staff members Kathy Morgan and Danelle Wellman actively served the April 4-7th Conference held in Nebraska City as on-site logistics staff. Several NJC affiliated board members and mediators attended the Conference, and Deb Brownyard and Louis LaRose presented at two of the workshops.
7. NAFCM: National Association for Community Mediation – Deb Brownyard participated in her first board meeting as an elected member of the national Board in April 2001. She was appointed co-chair of NAFCM's Development Committee whose responsibility is to seek and build resources for the organization.

SOUTHEAST NEBRASKA MEDIATION CENTER (SENNMC)

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Dr. Joel Lundak
Cheryl Stover



Staff:

Judy Pingel, Acting Executive Director
Kathy Haldeman, Mediation Coordinator

Judy Pingel, Kathy Haldeman

SENNMC, the Center to the south, has undergone numerous changes during the past year. With the arrival of Kathy Haldeman in July, Judy Pingel began doing outreach in the western counties of our service area. Kathy's background is in Psychology and Education. She brings with her a wealth of experience, which has proven to be a great asset to the Center. Kathy has taken over the lion's share of the caseload for the Center and "other duties" as assigned. In her spare time, she facilitates the parent workshop.

Nancy Johnson was hired on a part-time basis to do outreach in our northern counties. Nancy's efforts helped to bring in many new referrals from that area, especially juvenile cases. We saw an increase in juvenile victim/offender cases referred by probation and HHS. Along with this increase in juvenile cases, SENNMC increased the number of juveniles reached through workshops. Dianna Lewis developed a three-hour Conflict Resolution Workshop and an Advanced Skills Workshop. These workshops were presented to juveniles on probation or in diversion programs and their parents. SENNMC presented 11 workshops this year, 3 of which were for probation programs in Saunders, Gage, and Seward counties. Workshops were presented to the juvenile diversion programs in Jefferson and Saline counties. The workshop was expanded to include alternative schools such as the Beatrice Alternative High School and the Best School. Dianna also presented her conflict resolution workshop to the employees of the Crete Public Library.

Our family cases also increased over the past year. Even though the Legal Services Grant came to an end, Legal Services continued to refer family cases to the Center. This brought with it an increase in Access and Visitation cases. This year we opened 46 Access and Visitation cases. Of these cases, 19 were able to reach agreements through mediation. Our hope is to continue to increase the number of these cases and the number of mediations we do over the next year. We have also been able to reach parents in conflict through our Parent Workshop. This workshop is held once a month in Beatrice and Tecumseh. Judge Korslund and Judge Bryan are currently ordering the class in all domestic relation cases filed that involve minor children. We are working with Judge Remeiher in Otoe County to order the workshop. This will enable us to expand the workshop into Nebraska City. If Judge Remeiher finds the class to be beneficial, he will then start ordering it in Cass County. Due to this anticipated expansion, we are recruiting and training SENMC volunteers to facilitate the workshop.

We began a pilot program with HHS this year to do Family Group Conferencing in our area. Mediators were trained and assigned cases. As a whole, we are finding these cases time consuming and sometimes very difficult to complete. To give us a better understanding of Family Group Conferencing from the national level, Judy Pingel and Dianna Lewis attended the Family Decision-Making Conference held in Chapel Hill, North Carolina. It was a great experience, a mini-vacation, and both brought back numerous ideas and lots of useful information.

This year, not only did the SENMC programs undergo change, but so did the SENMC Offices. After several months of remodeling, creating some rather unusual working conditions, the SENMC offices are finally completed. It is wonderful to have more space, two offices and a mediation/conference room. This hi-tech makeover was completed with the addition of the new data tracking system, MADTRAC, and the networking of our computer systems. The Family Resource Center where we have been located for the past nine years has now become an official Nebraska One-Stop Shop for Workforce Development. This change brings with it many new opportunities to work with a variety of partners from business, industry, and other entities. These will be valuable resources for SENMC.

The SENMC Board of Directors gained five new members this year. They are: Joe Casson, Attorney; Vince Benjamin, CEO Beatrice State Development Center; Jody Gittins, Aide to Senator Ed Schrock; Judy Dye, Pastor of United Methodist Church; and Terry Keslar, Regional Marketing Coordinator for Assisted Living Complex. They bring with them a diversity of experiences. This diverse board has taken on a very active role with the Center. They are not only reviewing Center objectives, but also researching new and innovative directions in which to take the Center. They are also reviewing, updating, and developing Center policies and procedures.

One final change came with the departure of Jon Krutz, Executive Director, in April. Judy Pingel, who has been with SENMC for eight years as the Mediation Coordinator, was named Interim Executive Director. This change in leadership has brought with it numerous changes to the Center. Along with the Board of Directors, Judy is very actively reviewing and revising all policies and procedures. Financial practices are being reorganized and grants are being researched and applied for. These changes have brought along with them opportunities for growth and expansion. We will be developing new programs for business and industry. Our goal is to expand our capacity and the diversity of the types of services SENMC has to offer.

ENSURING CENTER ACCOUNTABILITY

While ODR assists in the development of dispute resolution programs, the office also provides oversight regarding the quality of available services. ODR oversees and maintains the statewide ODR Policy Manual and ODR Training Institute Standards and Guidelines. Updates and revisions occur regularly and are achieved through joint input and involvement of the State Advisory Council and the centers.

Accountability is built into the system at a number of levels. Every three months, the centers submit quarterly reports consisting of electronically transmitted updates of all cases, projects, and other services provided during the reporting period, as well as quarterly financial statements. ODR merges the data and prepares a statewide quarterly report of all system activity. These quarterly reports are reviewed by the State Advisory Council at regularly scheduled meetings. ODR and the centers meet quarterly to review activities and projects, exchange information, assess programming, and plan collaborative efforts.

ODR and statute establish the criteria by which the centers are evaluated. The State Advisory Council members and ODR schedule annual reviews of each center. Regular audits are also required of the centers. The State Advisory Council reviews all information and makes recommendations for the continued funding of each center.

NEBRASKA: A NATIONAL MODEL

Structurally, Nebraska serves as a national model. In 1991 the Nebraska Unicameral passed and funded the Nebraska Dispute Resolution Act. It is significant legislation for a number of reasons. First of all it makes Nebraska the only state to systematically provide access to services to all of its citizens equally. Secondly, it envisions the courts as important partners with community mediation centers in providing dispute resolution services.

This public-private partnership allows the courts to do what they do best - litigate, and the centers to do what they do best - mediate. This results in more judicial time to decide cases that are not able to be resolved by the parties themselves. This partnership also allows parties the opportunity to make their own decisions and to save time, money, and stress by using the mediation option. In the past nine years in Nebraska, there have been a growing number of court/mediation center projects in small claims, juvenile misdemeanor, and family cases particularly. Still much more could be done. This is a very significant relationship that needs recognition and re-enforcement. Courts must become more responsive to the needs of the communities they serve to improve public confidence in the legal system, and mediation centers need to receive judicial recognition as important players in the administration of justice in order to have their services effectively used.

Nebraska also serves as a national model structurally because, in addition to court-related projects, mediation centers also provide services to state agencies such as the Nebraska Department of Education, Health and Human Services, and Corrections. Much of the funding for these programs is coming from the federal government. In fact, the U.S. Department of Justice has been supporting community mediation for over 25 years with the designing and funding of the first national community mediation programs in the mid 1970's. Since that time, the Department has supported a breadth of development through direct services, training, research and evaluation and public awareness.

In the past 25 years, community dispute resolution has had impressive development in this country.

Today there are well over 500 community mediation programs serving their communities with thousands of volunteer mediators supported by state offices and networks, as well as a number of national organizations, and the federal government. Structurally and programmatically, Nebraska has been a leader in this innovative, comprehensive approach to the delivery of dispute resolution services.

ODR represents Nebraska nationally at the annual meeting of the state offices of dispute resolution convened at the Policy Consensus Initiative/Association for Conflict Resolution Conference. The office also provides a national connection for Nebraska within such organizations as the Nebraska Bar Association, the American Bar Association, the State Justice Institute, and Provider Organizations. We are also honored to have two of our center directors serving on the board for the National Association for Community Mediation.

National Involvement to Local Implementation: An Administrator's View

By Lori Burkey, Executive Director, Center for Conflict Resolution

Connecting national, state, and local community mediation efforts is a direction that Nebraska has been heading in this past year. We have seen several of the leaders in the conflict resolution field in Nebraska take leadership roles on a national level. The leading national organization in the field of mediation at this time is the National Association for Community Mediation (NAFCM). NAFCM is an organization of community mediation programs, state associations, and mediators that subscribe to the goals and mission of the association. It is a membership organization that is dedicated to promoting and supporting community mediation.

NAFCM's mission statement is to: Support the maintenance and growth of community-based mediation programs and processes; to present a compelling voice in appropriate policy-making, legislative, professional, and other arenas; and to encourage the development and sharing of resources for these efforts. The organizational goals of NAFCM are to:

- 1. Serve as a national voice and an advocate of community mediation.*
- 2. Promote the values, understanding, public awareness, and practice of community mediation and collaborative problem solving.*
- 3. Educate private and public funding sources about the experience, breadth, benefits, and applications of community mediation and develop financial resources to sustain these services.*
- 4. Serve as a national resource center for information on the development and practice of community mediation.*
- 5. Maintain a national directory and database of community mediation programs and practitioners.*
- 6. Foster communication and mutual assistance among NAFCM members in such areas as program and policy development, training, funding, and technology.*
- 7. Promote regional and national collaborative projects among community mediation programs.*
- 8. Promote collaboration between community mediation programs and other organizations at the local and national level.*
- 9. Develop and maintain ties with national, regional, state, and other dispute resolution organizations to enhance the growth of community mediation.*
- 10. Support research, program evaluation, mediation theory development, innovation, and quality in community mediation.*
- 11. Recognize and celebrate community volunteer mediators.*

12. *Develop local and national community mediation leadership.*

Currently there are two Nebraska mediation center directors that serve on the Board of Directors of NAFCM, Debora Brownyard and Lori Burkey. The following reflections are from Lori Burkey, the current Co-Chair of the NAFCM board:

In the process of evaluating the costs and benefits of being part of a national organization one question seems to always rise to the surface, "How does serving on a national board impact our local center and state?" The question is usually asked in regard to the amount of time it takes to serve on a board vs. the benefit it can give back to the local mediation community. It is a very good question and one that must be taken seriously when time and money resources are at such a premium.

This spring as I contemplated accepting more responsibility on the board of the National Association for Community Mediation (NAFCM), I analyzed the pros and cons with myself, staff and trusted friends and colleagues. I was honored by the request to play a leadership role with NAFCM and yet concerned about the time it would take. The rest of the staff at CCR and my friends were supportive and encouraged me to accept the offer. It was not until I began my term as co-chair that I truly came to understand the enormous shift of balance from cost to benefit.

Some of the benefits that I have discovered about connecting our local communities to a national organization include the following:

- ! Involvement on the national level has helped increase my understanding of the big "conflict resolution" picture and how to transfer that picture to local implementation. The NAFCM board focuses energy on the role it can play in supporting member community mediation centers. In so doing, it has been necessary to continually pull back and find the areas that are common to community mediation. As we identify these commonalities the result is the big picture. If we take those core principles and examine each one, we can give them our own communities persona. Additionally, it lets us know what core values we are already addressing and the ones we may need to strengthen.*
- ! It has increased awareness of how we as a local program fit into the big picture. One of the core values or key principles that has helped me shift my thinking as a director is broadening my understanding of the role and impact CCR has on the communities we serve. Rather than seeing ourselves as service providers in communities we are beginning to see ourselves as vital and integral community members.*
- ! Meeting and being associated with other professionals in the field has fostered many connections. Expanding our human resources to include people from all over the United States and beyond is incredibly valuable. As we begin to take on the responsibility of truly being a community member we become a resource of information and connection building in a much larger way. At a recent meeting that one of our staff members attended, a woman approached her asking for information for her daughter regarding mediation programs in Texas. This is a simple example, but we were able to give her much more information than a telephone number and more importantly, make a real human connection.*
- ! This work provides a bench mark for how we are doing as a program both locally and as a state-wide system. It has been rewarding to see our program and our state system from the perspective of other state and local programs. We continue to be on the cutting edge of growth and development in Nebraska and still willing to evaluate and be evaluated for best practice principles. I am awed by the roots that were set down in Nebraska only ten years ago. The vision of people like Kathleen Severens and other Nebraska pioneers have brought to fruition many of the building blocks that make us strong today and continue to build through new national connections.*
- ! The gathering of conflict resolution professionals from all over the country is helping us to be*

grounded in the field of conflict resolution. In hearing the conversations that happen between and among people who are steeped in the field of conflict resolution we become heightened in our awareness of the many intricacies that impact us in the roles we play in our personal and professional lives. Our language and our behaviors are so powerful and we are often unaware of their impact. The role models provided through this type of national networking permeate into patterns of thinking and bring forward questions of integrity on every level of behavior.

- ! NAFCM is an organization that is fastidiously dedicated to strengthening community mediation programs. It offers us an opportunity to access national resource information. Part of doing this is developing and providing resources to its member centers. Resources take on many characteristics including information regarding opportunities that exist for centers, happenings in the field, best practices, related legislation, mini-grants available through NAFCM, and regional training institutes. My personal involvement with the regional training institute benefits the state and the center as I must question and examine at each step how we are operating in order to write an effective curriculum. As I share the practices of CCR with participants from across the country I have an opportunity to learn how that resonates with a broader audience.*

I am grateful for the opportunity to serve my local communities, to be a part of the Nebraska system, and to be connected to this incredible national organization. The challenge of keeping all of these opportunities connected and relevant to the work we do each day is energizing and inspiring. I hope to continue to share these valuable lessons and experiences as they develop.

In an effort to support the expansion of mediation, our state was proud to sponsor a regional conference during this year entitled "2001: A Peace Odyssey."

Heartland Mediators' Conference

By Paul Ladehoff, Program Coordinator, The Mediation Center

The Nebraska Mediation Center Association hosted the Second Annual Heartland Mediators' Conference at the Lied Conference Center in Nebraska City in April. The goals of the conference included networking between states, organizations, and individuals, building practitioner skills, and enhancing the public image and awareness of mediation. The conference was a great success with more than 200 mediators attending from Nebraska, Kansas, Iowa, Missouri, Oklahoma and surrounding states.

The conference provided an exciting array of speakers. Nationally recognized trainer Dorothy Della Noce, of the Center for the Study of Conflict Transformation, Hofstau University, New York City, New York, gave an advanced training in Transformative Mediation and a plenary address. Kathleen Severens, Director of Community Dispute Resolution at the U.S. Department of Justice (and former Director of the Nebraska Office of Dispute Resolution) gave a keynote address and participated in a panel discussion addressing the future interplay between mediation services and the legal system. Her distinguished co-panelists were the Honorable Daniel Beckwith, Chair of the Nebraska ODR Advisory Council; Art Thompson, Dispute Resolution Coordinator with the Office of Judicial Administration of the Supreme Court of Kansas; Wendy Hind, Director of the Nebraska Office of Dispute Resolution; and Ron Volkmer, Professor of Law at Creighton University School of Law. Conference participants chose from eighteen workshops on a wide variety of topics from church mediation to tribal peacemaking, from restorative justice to preventing youth violence, and from organizational conflict to family group conferencing. Workshops leaders came from Nebraska and throughout the Midwest. Workshops dealt with both practical and theoretical issues and included lots of time for questions and networking. In addition, UNL Professor Paul Olson gave a lecture examining War and Peace in Literature and discussed the use and abuse of literature in peace movements. The conference also presented many opportunities for fun and celebration, including a luncheon with Nebraska comedian and humorist T. Marni Vos and a sing-along celebration of peace with Lincoln musician Chris Sayre.

The conference would not have been the success that it was without the generous financial support of the following conference sponsors: Nebraska Humanities Council; Nebraska Department of Education; Winnebago Tribe of Nebraska; Policy Consensus Institute; HunTel Communications ; Martindale-Hubbell; University of Nebraska -- Lincoln; National Association for Community Mediation; Nebraska Court Improvement Project; Nebraska Health & Human Services System; Nebraska Mediation Center Association; Nebraska Office of Dispute Resolution; Farm Mediation Program, Nebraska Department of Agriculture.

MEDIATORS

ODR has worked collaboratively with the centers to develop and promote internationally respected training programs, with built-in apprentice opportunities for those seeking to practice their skills in Nebraska. The statewide affiliated mediator program provides for supervised experiential learning after Basic Mediation Training is completed. Trainees who are accepted into the program by one of the six centers may take training at half the registration fee, agreeing to volunteer a minimum of 24 hours as a mediator. Mediators are then paired with experienced mediators to mediate cases. This builds their skills and provides a valuable service to the community. Centers also provide regular in-service activities for the continuing education of their mediators.

ODR works with the centers to ensure compliance with the Standards and Ethics for Mediators, as established in the Dispute Resolution Act. Centers work in conjunction with ODR to establish evaluation and grievance procedures that allow those using mediation to report concerns to center directors, and allow ODR to monitor the satisfaction levels of those using mediation across the state. ODR encourages the use of co-mediation, both for skills building and additional oversight.

Year after year, Nebraska's center-affiliated mediators continue to demonstrate an amazing commitment to community service, working for little or no financial reward as they engage in grassroots peacemaking across our state. In 2000-2001 the centers had 283 active volunteers; contributing a total of 30,081 hours of service! 150 volunteer mediators were utilized during FY 2000-2001. These mediators contributed 2,107 hours of time in mediation.

Nebraska Mediators: Who Are They?

By Elizabeth R. Kosier, Executive Director – The Mediation Center: Resources for Collaborative Decision Making

One of the greatest privileges of being a part of Nebraska's dispute resolution system is the opportunity to meet, train, and mediate with a delightfully wide variety of community members who affiliate with the mediation centers around the state. Nebraska mediators represent a broad cross section of the residents of the state and, not surprisingly, they are attracted to the practice of mediation through the state's non-profit centers for equally diverse reasons. What follows offers a glimpse of the dedicated people who are so instrumental in our service delivery system.

Center affiliated mediators come from all walks of life. Many started life in Nebraska – on farms, in urban centers, as members of tribal communities, or in small rural towns. Others are transplants, drawn to the quality of life available here. Most have received their mediation training in Nebraska through the Nebraska Mediation Center Association (NMCA) Training Institute. A few mediators have come to Nebraska with mediation training and experience from other states, and have eagerly sought a way to maintain their skills through center affiliation. Interestingly, some mediators come to Nebraska for only a short time, solely for the purpose of completing NMCA's nationally recognized Basic Mediation Training, and then return to their home states and countries to invest their new skills in their local communities. What is universally apparent among the majority of both temporary and permanent Nebraska mediators is the drive to learn a new strategy for transforming the way people interact, and to discover what promise it holds for themselves as well as for other individuals, organizations, and communities.

Unlike trends or requirements in other states, the backgrounds of Nebraska mediators are not confined to narrow arenas. The state's mediation centers recognize that, rather than becoming qualified through a particular academic degree or occupation, mediators need to possess a skill set

that complements the assumptions underlying a facilitative model of mediation and a belief in participants' capacity to design and self-enforce durable, satisfactory outcomes. As a result, center affiliated mediators come from an array of disciplines and experiences.

Like many states, the practice of mediation is appealing to the legal profession. Nebraska judges – from the Nebraska Supreme Court, federal district court, and Workers Compensation Court to county and juvenile courts – have added mediation skills to their repertoire. Many lawyers are trained as mediators, including county attorneys, those in private practice, and lawyers in legal services settings. Many mediators across the state come from a social work or therapeutic background, serving in their “day jobs” as health and human service supervisors, mental health professionals, advocates for victims of domestic violence, private practice counselors, and family specialists.

The roster of mediators includes a number of people from the education sector, including public school teachers and administrators, an assistive technology specialist, college administrators, a community college dean, and professors of law, communication, public administration, community planning, mathematics, and architecture. Mediators come from institutional and organizational settings that are public, private, for profit, and not-for-profit. An employee of county extension is a mediator. Mediation is practiced by legislative aides. Justice system and law enforcement professionals have learned to be mediators. Human resource professionals and real estate managers find mediation a compelling activity. At times no common thread is discernable to explain how various individuals venture into mediation. A small retail business owner mediates for a center, as does a carpenter, a farrier, a hospital administrator, a political advocate, a youth leader, and a computer programmer. In some cases, entire offices find the practice of mediation to be an asset in their work as state ombudsmen, employee assistance specialists, medical center personnel, residential housing and student services staff, or public policy researchers. Homemakers, college students, AmeriCorps members, retired business executives, private consultants, and tribal elders also have incorporated mediation into their lives. Every mediator brings enthusiasm to the work accomplished through the mediation centers regardless of the framework that defines their livelihood.

The philosophical base that pulls people toward mediation is as unique to them as is how they spend their time outside mediation. Some clearly are motivated by self-interest, seeing the potential of mediation as a full-time occupation. Others value how mediation skills enhance their effectiveness as managers. One center-affiliated mediator explained that mediation practice improves his listening skills and enhances his ability to help employees understand each other's perspectives. A number of mediators tell of their interest in improving the lives of children, in having positive impact on how families function, in helping organizations be strategically poised for the future, or in contributing to the resilience and vitality of communities. Mediators also see their work as a commitment to peacemaking locally and globally. One lawyer views her mediation efforts as a way to broaden the scope of human interaction traditionally narrowed by legal parameters. Others appreciate mediation as an approach to systemic change within institutions and agencies.

Occasionally, mediators are surprised to find themselves leaving mediation training inspired by an entirely new philosophical grounding. A litigator reported that he wouldn't have given serious thought to mediation had he not faced critical health issues that affected his ability to sustain his law practice. When associates suggested that he try mediation because he would be good at it, he decided to “take the plunge.” And, he explained, he has been “hooked ever since.” He is one of the many hundreds of people who are committing their time, energy, talents, and spirit through the state's mediation centers on behalf of the people of Nebraska. They represent the quiet yet potent and mostly volunteer workforce statewide that make the delivery of mediation services possible.

ODR TRAINING INSTITUTE

Since 1992, ODR and the Centers have worked together to create and improve state-of-the-art training materials and rigorous standards for trainers, providing excellent hands-on training for Nebraskans and making Nebraska a model for the nation. ODR programs have attracted participants not only from surrounding states, but from across the world.

Mediation is an experience-based skill. Courses through the ODR Training Institute are only a start. Through the centers, mediators have the opportunity to practice what they have learned by working with experienced mediators in an apprentice role. The result is an ever-growing pool of professionally trained, experienced mediators available for dispute resolution across the state.

ODR offerings attract practicing mediators, those seeking to improve personal or professional problem-solving and communications skills, people interested in developing conflict resolution systems, and those who want to model more peaceful means of interaction and problem solving.

NMCA Training Institute Faculty

Trainers for the 2002 Training Institute have met rigorous training standards and bring with them a variety of life experiences and professional backgrounds. Guest trainers often are invited to conduct training in advanced and specialty areas. Past nationally recognized trainers who have been brought to Nebraska include: Angeles Arrien, Michael Keating, Jim Melamed, Nina Mierding, Carl Moore, Mark Umbreit, Zena Zumeta, William Potapchuk, and Robert Benjamin.

Lead Trainers

Debora Brownyard, JD - Executive Director of the Nebraska Justice Center, practicing attorney mediator, and adjunct professor at Creighton School of Law. She has a background in family, business, negotiation, disabilities and Native American law. Deb is currently serving on the Board of the National Association for Community Mediation.

Lori Burkey, MA - Executive Director of the Center for Conflict Resolution with a Master's in Conflict Resolution. She is co-author of the Nebraska Family Mediation Manual and a Parent Education Program curriculum for divorcing families in Nebraska. Lori is currently serving as a co-chair on the Board of the National Association for Community Mediation.

Betsy Kosier, MA, JD - Executive Director of The Mediation Center, a practicing attorney mediator and an adjunct professor at UNL College of Law. Drawing on her background in communication, international education, and the law, she has developed training programs for more than 15 years in a variety of subject areas including conflict resolution, collaboration strategies, and cross cultural dynamics.

Paul Ladehoff, MS, JD - Program Coordinator of The Mediation Center, a practicing attorney mediator with previous experience as an environmental litigator, and adjunct professor at the University of Nebraska. He has mediated a wide variety of disputes and facilitated group decision-making in many contexts. Paul previously worked as an environmental litigator and taught college mathematics.

Assistant Trainers

Sarah Bartlett, MS - Sarah has her masters degree in counseling and is the Family Group Conferencing Project Director at the Center for Conflict Resolution. She coordinates Family Group Conferences and is a co-author of the Nebraska Family Group Conferencing Manual. She is a presenter for the Families in Transition Program and facilitates study circles about Healthy Relationships for several schools in western Nebraska.

TYPES OF SERVICES

Systems Design and Referral Development

ODR works with Nebraska commissions and agencies to create dispute resolution alternatives within governmental and public sector organizations.

State agencies and the ODR system work collaboratively to offer additional conflict resolution services to the public. A project can involve a number of components such as program procedures, referral systems, outreach and education, contract or grant writing, and staff and mediator/facilitator training. This year, the ODR system worked with the University of Nebraska, Department of Education Special Populations Division; Client Assistance, Vocational Rehabilitation, and Nebraska Commission for the Blind and Visually Impaired; the Department of Health and Human Services Employment First, Child Support Enforcement, Child Protective Services Programs, Office of Juvenile Services; and the Department of Corrections.

Integrating mediation into the justice system occurs at many levels. Projects involve referral procedures, education, intake and case management, funding, and monitoring. Programs have been developed or enhanced for small claims courts, juvenile court, county court, district court, and cases through the U.S. District Court.

Small Claims Mediation

Over 38 Nebraska courts now offer mediation as an option for small claims cases. While these types of disputes are central to the mission of most community mediation centers, no separate funding is available in Nebraska to meet the costs of mediating them. Center fees range from zero up to \$10 per person to mediate a small claims case; however, cases cost roughly \$100 to conduct. This is a barrier to centers wishing to be more active in this area. Small claims mediation cases average about an hour. 361 cases were conducted during FY 2000-2001.

Family/Divorce Mediation

Increasingly in Nebraska and across the country, family and divorce issues are being addressed through mediation. This year the ODR system had 608 family and divorce cases. This was a 31% increase in family cases since last year.

Both the Dispute Resolution Act of 1991 and the Parenting Act of 1994 encourage the use of mediation in matters involving domestic relations. In Douglas County, under Court Rule 4-3, mediation is required in divorce cases involving children. The Parent Education Act of 1998 allows courts to order divorcing couples to attend a workshop on divorce; many of the centers offer such courses as a complement to their mediation services.

Prior to mediating in this area, experienced mediators attend an additional 30 hours of family mediation training, including a component on domestic violence issues. Parties are encouraged to consult with attorneys prior to signing any agreement which might come out of mediation. Case referrals are also received from Legal Services, attorneys, counselors and the courts.

Family Group Conferencing (FGC)

A specialized form of facilitated decision-making called Family Group Conferencing (FGC) has attracted the attention of those involved in the areas of child abuse/neglect and juvenile delinquency.

The approach brings in the extended families of the children affected, to make decisions about the needs of those children with the advice and oversight of HHS and other professionals. The approach empowers the family to take responsibility for problems within the family. Families often respond with HHS-approvable plans which keep children within their extended families, thereby reducing the numbers of children in foster care. FGC originated in New Zealand and is now used in many states.

FGC pilot projects have been conducted across the state. These projects involved all six centers in collaboration with ODR, the Center for Children, Families, and the Law, the Court Improvement Project, and the Department of Health and Human Services.

Family Group Conferencing in Nebraska

By Debora D. Brownyard, J.D., Executive Director, Nebraska Justice Center

Family Group Conferencing (FGC) is a new and expansive model of family intervention being provided by Nebraska's mediation centers for children who are at risk because of parental child abuse, neglect, dependency or juvenile status offence or delinquency matters.

What is Family Group Conferencing? *It is a new-old concept of families taking responsibility for children whose safety, welfare, and well-being are at risk because of child maltreatment, dependency, or delinquency situations within the child's immediate family. Family includes parents, grandparents, aunts and uncles, cousins, step-family and half-family members, as well as those considered as family by the group. FGC is modeled after the Maori tradition of Whanui Hui "family gathering" of New Zealand, and is similar to indigenous peoples' cultures globally, in which the extended family and the community come together in a traditional setting to talk and to decide how to protect and care for the children's best interests when a breakdown of any kind occurs within the family system. FGC is a goal-oriented, problem-solving process that provides families the opportunity, in a structured setting, to make decisions about their children's care and protection.*

Roles of Health and Human Services, Mediation Centers and FGC Coordinators. *The role of Health and Human Services in Family Group Conferencing cases is to refer cases to the mediation centers, participate during the preparation and conference phase of FGC, and to monitor the cases. The mediation centers are responsible for administration of the Family Group Conferencing initiative, case management, training and supervision of the FGC Coordinators, and quality assurance. The FGC Coordinators are responsible for the extensive preparation of the family members and providers involved in the children's welfare prior to the day-of-conference; for arranging for the logistics of the conference; for facilitating the conference itself; and for all of the follow-up activities, including dissemination of the family plan and conducting the 90-day follow-up meeting.*

The premise of FGC is that decisions for at-risk children are more meaningfully and significantly made on behalf of the children's well-being when addressed at a large family gathering, facilitated by a neutral FGC coordinator, and with appropriate professional (HHS) and service providers present to provide information about their perspectives of the family's strengths and concerns.

FGC in the United States. *The American Humane Association's (AHA) research on Family Group Conferencing in the United States reports that in 1998, over 50 U.S. communities have family group conferencing initiatives, up significantly from just five communities in 1995. (Merkel-Holguin, 1998). Michigan, New York, California, Oregon, and now Nebraska are some of the states in which*

FGC or modified models are being used. AHA identified four factors contributing to the increase of FGC. (1) The family-centered and strengths-based practices of FGC are reflective of the paradigmatic shifts within the child welfare system. (2) FGC is consistent with the child welfare reform movement's orientation that the responsibility of protecting children is a shared responsibility among the child welfare agencies, the extended family, and the community. (3) One of the measured outcomes of FGC, an increase in the number of children placed with relatives, reinforces the federal and state policy and practice, which emphasizes the importance of kinship care. (4) FGC provides a model for child welfare agencies and the courts to practice family and solution-focused intervention with families. More information about FGC is available at the American Human Association's website: <www.fgdm.org>

What is the Family Group Conferencing Process? The model of FGC being used in Nebraska has a three-phase process: (A) Preparation; (B) Conference; (C) Post Conference Follow-up.

(A) Preparation. While the second phase, the Conference, may appear to be the most visible part of the model, the Preparation phase actually is the most time-intensive part of FGC. FGC Coordinators, who in Nebraska are highly skilled and professionally trained affiliated-mediators with the ODR-approved mediation centers, invest about 60% of the total FGC process in the Preparation phase. During Preparation, the Coordinators will personally meet with the children, the children's parents and talk with other significant family members, with HHS staff, and other significant professionals involved with the protection of the children. The purpose of these preparatory discussions is to identify the key issues "HHSS's bottom lines" that require discussion and decision-making, and to assist the participants to begin identifying strengths and concerns or worries that they have about the children's well-being. A typical Preparation phase may take 25 to 40 hours of work.

(B) Conference. The Conference phase, facilitated by two FGC Co-Coordinators, generally is held in a comfortable, family-like setting. The Conference itself may take four to eight hours, depending upon the number of participants and the intensity and complexity of the issues and dynamics.

The Conference has three stages: (1) Joint Introduction and Information Sharing; (2) Private Family Meeting Time; and (3) Joint Decision-Making. During the first stage, the family welcomes the group, has the opportunity to begin the gathering in a traditional manner, with food, song, prayer, or other. The FGC Coordinators then systematically and constructively assist the participants to share information about the children and the family, all with the focus upon addressing the child protection issues. Information of the FGC Purpose, the Strengths and Concerns, and HHS and Court's "bottom lines" are elicited and recorded on large paper for the family to refer to during its private family time.

As indicated, the middle stage "Private Family Time" is private. Only the family is in the room to discuss and reflect upon the information shared during the first stage. It is during this private family time that family members question, affirm, challenge, support, wrestle, and strive to develop solutions that will protect the children. A family spokesperson will record the family's thoughts and decisions for reporting back to the joint group.

The third stage, "Joint Decision Making," is when the full group reconvenes. The family reporter shares its proposed plan for the protection of the children. The FGC Coordinators provide an opportunity for HHSS, professionals, and other persons in the room to question, add to, test, expand upon the family's plan. Only when the entire group is mutually satisfied with a Plan will it be written and signed by the FGC participants.

(C) Post Conference Follow-up. The third phase of FGC is the implementation phase of the family's Plan. If the situation is an active child welfare case with HHS, the child welfare worker, along with the family, will likely integrated the Plan within the HHS case plan, and request the Court to set a review hearing to adopt the Plan. The FGC Coordinators ask the group to set a follow-up conference to be held within 90 days of the FGC session. Often, the Plan includes provisions for extended family members to support and monitor the parents and children on a specific, timely schedule. The participation of extended family in the implementation of the Plan has obvious benefits: more ownership and responsibility by family members for the children's well-being; less

demand upon the state welfare agencies to "micro manage" the family; more empowerment of the family itself to seek out additional resources or develop contingency plans if a future crisis occurs.

The Future of Family Group Conferencing. The concept of bringing together extended family members for decision-making is a new-old concept. At the time of writing this article, FGC is being offered statewide with the goal of providing 144 families FGC services within the year. Discussions with the legal profession have also included the possible use of this model with estate, probate, and guardianship matters. The applications are endless. The unique aspects of this model will continue to include: (a) the use of skilled, experienced third-party neutral facilitators, (b) careful and thoughtful pre-conference preparation and interviewing; (c) the sanctity of the family itself as the primary source of information, wisdom, and initiative for being the decision-makers in these very profound, heart-of-our-community and nation, human matters.

Questions or comments about Family Group Conferencing in Nebraska may be directed to: Wendy Hind, Director, Nebraska Office of Dispute Resolution, Supreme Court Administrator's Office, Lincoln, NE, 402-471-3148. Also: Lori Burkey, Center for Conflict Resolution, Scottsbluff, NE, 308-635-2002, <lburkey@centerforconflictresolution.com>; Debora Brownyard, Nebraska Justice Center, Walthill, NE, 402-846-5576, nejjustice@huntel.net; Victoria Weisz, M.L.S., Ph.D., Nebraska Center on Children, Families, and the Law, Lincoln, NE, 402-472-9814, vweisz@unlinfo.unl.edu; Dawn Swanson, Co-Administrator Protection and Safety Division, Nebraska Health and Human Services System, 402-471-8403, <dawn.swanson@hhss.state.ne.us.

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Restorative Justice (formerly referred to as Victim/Offender Mediation)

Victim-offender mediation (VOM) is one application of a broader restorative justice movement which is increasingly finding proponents among law enforcement officers, victim's rights advocates and the juvenile justice system. VOM holds juvenile offenders directly accountable to those they have harmed, giving them an opportunity to meet face-to-face with their victims to take responsibility for the damage they have caused. VOM brings victims who so desire into the justice process, allowing them to get their questions answered and to achieve closure to an unpleasant episode in their lives. Since the early 1990s, over 500 VOM programs have been established across the country. The centers worked on 119 VOM cases in 2000-2001. 53 cases were actually mediated and 48 resulted in some type of an agreement.

Adult Victim-Offender Mediation and Dialogue Program

The centers carried over some funding for a statewide Victims of Crime Act (VOCA) grant to plan and implement a victim-initiated VOM program in partnership with the Nebraska Department of Correctional Services, the Board of Parole, and victim support services.

Protocols have been developed and experienced mediators trained to mediate such cases in correctional facilities. The goal is to allow victims, who so choose, to be able to directly face those who harmed them, get their questions answered, and reach some sense of closure. One case has currently been mediated and several other cases have recently been opened.

Mediation and the Separate Juvenile Court

By Honorable Douglas F. Johnson, Separate Juvenile Court of Douglas County, Nebraska.

As a member of the National Council of Juvenile and Family Court Judges (NCJFCJ), I had long heard about the benefits of mediation: Parties resolve their own issues, less litigation, less conflict, longevity of mediation agreements, and most importantly, appropriate and timely outcomes to meet the needs of children and families. Based on their positive experience of mediation, I started taking steps so that mediation could be used in my own Court.

As a first step, I decided to become trained in mediation to have a better appreciation of the concept. Spending the better part of a week in training was concerning, but well worth the time spent. I was pleased to receive my certificate from the Office of Dispute Resolution of Nebraska in 1998.

Mediation training has helped me become a better judge by being a better listener. Not only that, mediation training helps one focus on issues, not personalities. Mediation skills help reduce tension and hostility which may occur in court. I do not officially mediate in court, but I try to use the skills to help parties calmly work out issues and avoid costly and prolonged litigation.

Being trained in mediation helped me better understand the value of mediation as expressed by other judges who are able to refer children and families to mediation. Other judges in NCJFCJ have long used concepts of mediation with success in Family Group Conferencing (FGC), as well as

mediation of permanency issues. I realize some may take exception to the use of mediation in FGC but the underlying principles are similar. In Nebraska, mediation has been available for juveniles (Nebraska Revised Statutes Section 43-246(4), Reissue 1998) and in rural areas with Family Group Conferencing.

In delinquency cases, we continue to refer youth to victim-offender mediation. These referrals go to the Concord Center as well as other trained mediators in the area. At this time the costs have to be borne by the offending youth. Consequently and unfortunately, many candidates for victim-offender mediation are unable to participate in this excellent opportunity. With some exceptions, offenders and victims have found the experience enlightening and fruitful. The juvenile and victim gain a real experience of restorative justice.

On a pilot basis, we are using mediation with FGC as a diversionary front-end tool for abuse/neglect/dependency cases, and mediation of permanency issues in cases moving toward termination of parental rights. Both tools help keep children out of foster care and either at home or adopted more quickly. As Juvenile and Family Court judges in other states often say, mediation can be used at anytime for any issue.

Working in conjunction with the Nebraska Department of Health and Human Services administrator Carolyn Thiele, the Concord Center Executive Director, Mary Lee Brock, and Judge Wadie Thomas, we wish to build on the pilot efforts and expand the role and frequency of mediation to the children and families we serve. To that end, we are planning a conference on FGC and dependency mediation this fall through the NCJFCJ. The NCJFCJ will send the San Jose Model Court team members as faculty. Ms. Thiele, Ms. Brock, Judge Thomas and I participated as a team in on-site training at the San Jose Model Court in August of 2000. They have an excellent and effective model of FGC and dependency mediation. We hope to emulate the same.

If you still have reservations about mediation or your being trained in it, participants and trainers in mediation have found judges and lawyers, in particular, benefit in developing better listening skills, framing the real issues and developing viable resolutions. Why is this? Through legal training, judges and lawyers tend to cut to the chase in their attempt to identify issues. Not so for non-lawyers. Therapists and social workers and other non-lawyers did a much better job of listening to the parties and helping them get to the heart of the issues and their resolution.

A wise judge once said, "The judge who rules least rules best." Mediation does just that.

Facilitations

Facilitations are mediated discussions among larger groups, often not focused so much on particular issues in dispute as on a set of decisions to be collaboratively made. Mediation skills are valuable in a facilitation setting; center facilitators receive additional training specific to group decision-making and to techniques for working effectively with groups both in, prior to, and following facilitated meetings.

When citizens take a more active role in the issues that affect their lives, there is greater potential for sustainable resolutions. The ODR system has worked with local and state governments and organizations on environmental, educational, housing and law enforcement issues. This year the ODR mediation system conducted 53 facilitations.

Study Circles

Study circles bring a racially diverse group of people together in a facilitated discussion of their experiences and fears, in order to bring about a deeper understanding between groups. Typically, a study circle involves about a dozen people who meet together several times, sharing stories, asking questions, identifying interests and growing together in respect and understanding. Study circles are a conflict prevention tool. With increased understanding within the community, potential race-related tensions in the future will be less common and less likely to become inflamed.

Special Education Mediation

ODR, the Department of Education, and the centers have completed their seventh year of a collaborative effort to provide mediation services for situations involving children with verified disabilities. The agreement provides both for the managing of mediation cases and for project education and outreach. This year 24 Special Education cases were opened. Statewide 192 cases have been opened over the seven years of the program.

Employment First Mediation

Five years ago, in order to implement Nebraska's welfare reform efforts known as Employment First (EF), the Department of Health and Human Services (HHS) and ODR entered into an interagency agreement to provide conflict resolution services in two pilot areas in the state, one urban and one rural. Training was conducted for HHS staff and in-service workshops for center mediators.

The project covers the entire state now and this year 69 cases were opened with 28 being mediated. 89% reached some sort of resolution at the table.

U.S. District Court Mediation

The Mediation Project of the U.S. District Court began with the approval of the General Order for Court-Annexed Mediation in the United States District Court for the District of Nebraska. Mediators affiliated with the six state-approved mediation centers and those in private practice receive training, apprenticeships, case referrals and management, and continuing education through the Office of Dispute Resolution statewide system. All federal court litigants and their attorneys have high-quality, affordable mediation services available.

Federal mediators are attorney mediators who have completed 30 hours of Basic Mediation Training, 16 hours of Federal Mediation Training, and a minimum of three supervised mediations prior to approval. There were five cases referred to mediation centers during 2000-2001.

Participants Give High Marks to Mediation

901 individuals completed exit surveys or evaluations. Of those individuals, 813 (90%) were satisfied with mediation.

Future Growth Areas

The Family Group Conferencing projects has attracted the interest of decision-makers involved with issues surrounding abused/neglected children and juvenile delinquency. By empowering families to take responsibility for their own problems, FGC offers a powerful solution which will grow in importance in Nebraska, as it is across the country. This will be one of the largest growth areas in the near future.

The family and divorce caseload will also likely continue to expand as programs become established and refined statewide. With the continued growth of mediation services in family matters, private attorney referrals also continue to increase as more and more lawyers recognize the value of the mediation tool in meeting their clients' interests.

Restorative Justice programs will also likely become better understood and established with the continuation of federal funds through probation and the Department of Health and Human Services.

APPENDIX

DISPUTE RESOLUTION DEFINITIONS

Dispute resolution alternatives range from avoidance to armed conflict, with litigation the most common formal approach used in our society. There are a growing number of alternatives to litigation that may be appropriate for certain situations, parties or types of dispute. While focusing primarily on mediation, the ODR system also continues to expand the types of other dispute resolution services available in Nebraska. The following definitions are provided to clarify terms used elsewhere in this report.

Conciliation uses a third party to work with parties separately in an attempt to correct misconceptions, reduce unreasonable fears, and improve communication to an extent that will permit direct discussion between the parties and lead ultimately to a voluntary settlement. Data collection and analysis can be an essential component of this process because it is diagnostic in nature.

Facilitation is a process that assists groups of people with goal setting, information gathering, and strategic planning. A facilitator helps a group move toward effective communication and participation in order to identify and explore issues. It is an efficient and effective means for larger numbers of people to manage and implement joint efforts. Facilitation also works in situations calling for Collaborative Problem Solving, where the facilitator helps a group to define problems, establish objective criteria for measuring possible solutions, generate options, and work toward consensus.

Family Group Conferencing (FGC) brings extended families, service providers, and others into a facilitated discussion to develop a plan for the well-being of abused or neglected children. It may also be used in cases of juvenile delinquency. Procedurally, the FGC coordinator contacts all parties who may play a role in the child's life, including relatives, Health and Human Services case workers, clergy, therapists, teachers, and others, to gain information and schedule a conference. At the family conference, the group first identifies the family's strengths, discusses concerns, and learns of specific care and protection needs that must be addressed for the child's well-being. Next, the extended family meets privately to develop a plan. Last, the family presents the plan to the larger group, which discusses it and tests the options proposed. If all participants arrive at a mutual agreement, the FGC plan can be implemented, or submitted for court approval.

Mediation provides a neutral third party (mediator) who has no decision-making authority and is impartial to the issues being discussed. The mediator is present in order to assist the parties to voluntarily reach a mutually acceptable settlement of the dispute. Mediation honors self-determination, respects each participants' uniqueness and values, seeks a mutual awareness of interests underlying the dispute issues, and often leads to self-enforcing agreements with which all participants are satisfied. Mediation can take place at anytime, either within or separate from the legal process.

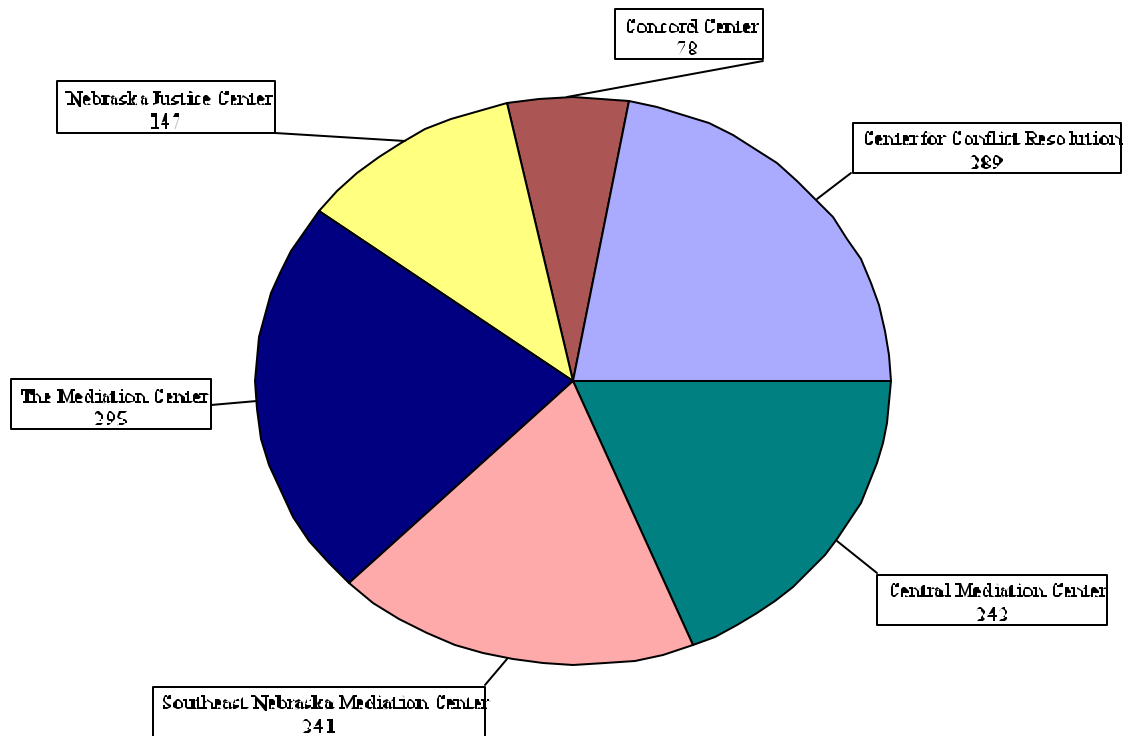
Negotiated Rule Making is a process designed to involve all stakeholders in the implementation of legislation through active participation in the development of agency regulations. Nebraska has a Negotiated Rule Making statute. Particular legislation can prescribe citizen involvement through Technical Advisory Committees (TAC) such as the one to address leaky underground petroleum storage issues that was facilitated by the ODR system in recent years.

Restorative Justice has been commonly defined as a process whereby parties with a stake in a specific offense or a series of offenses resolve collectively how to deal with the aftermath of the offense and its implications for the future. Restorative justice, more than any particular practice, is a set of principles which form the paradigm for any agency or group in relation to crime. These principles can be stated as: (1) making room for the personal involvement of those mainly concerned (particularly the offender and the victim, but also their families and communities); (2) seeing crime and delinquency problems in their social context; (3) a forward-looking (or preventive)

problem-solving orientation; and (4) flexibility of practice (creativity). Restorative justice sees criminal and juvenile justice as they are related to the social fabric of society and stresses relationship to other components, rather than a closed system in isolation. The offender is treated as a whole being, and crime and delinquency are seen as equally involving offenders, victims, and communities.

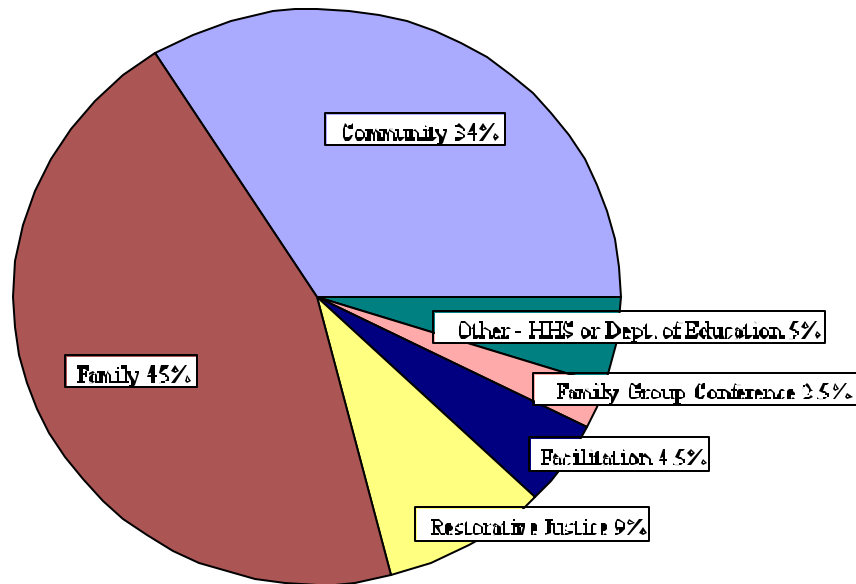
Study Circles are democratic, small-group participatory conversations that offer citizens the chance to get to know one another, consider different points of view, explore disagreements, and find common ground. Study Circles on race have been initiated nationally in the past few years and the ODR system has been actively involved in Nebraska.

New Cases Opened by Mediation Center



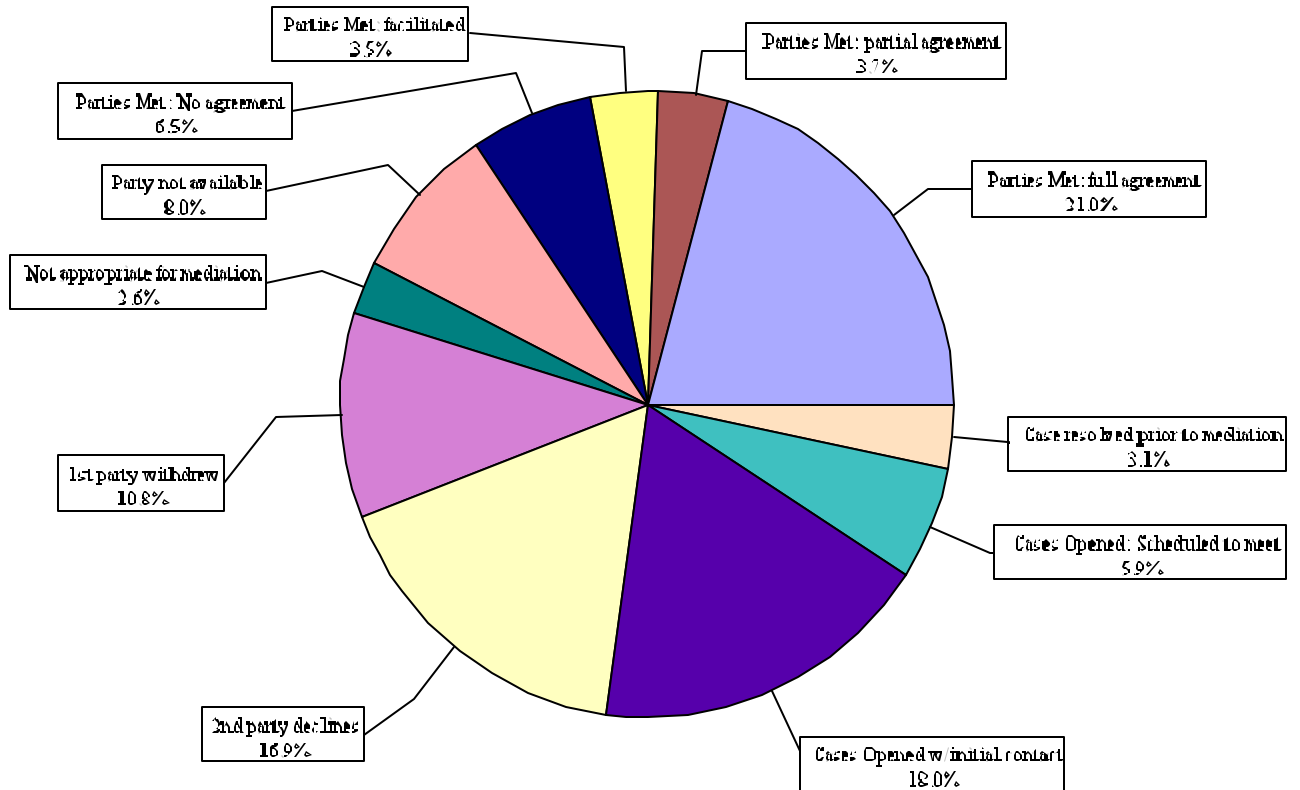
These numbers represent the number of new cases reported open by each center to ODR for the fiscal year 2000-2001. Each center continues to increase their case load year after year while receiving only \$45,000 per center from the State of Nebraska. While some cases are supplemented by grants or contracts, many are not.

Case Types



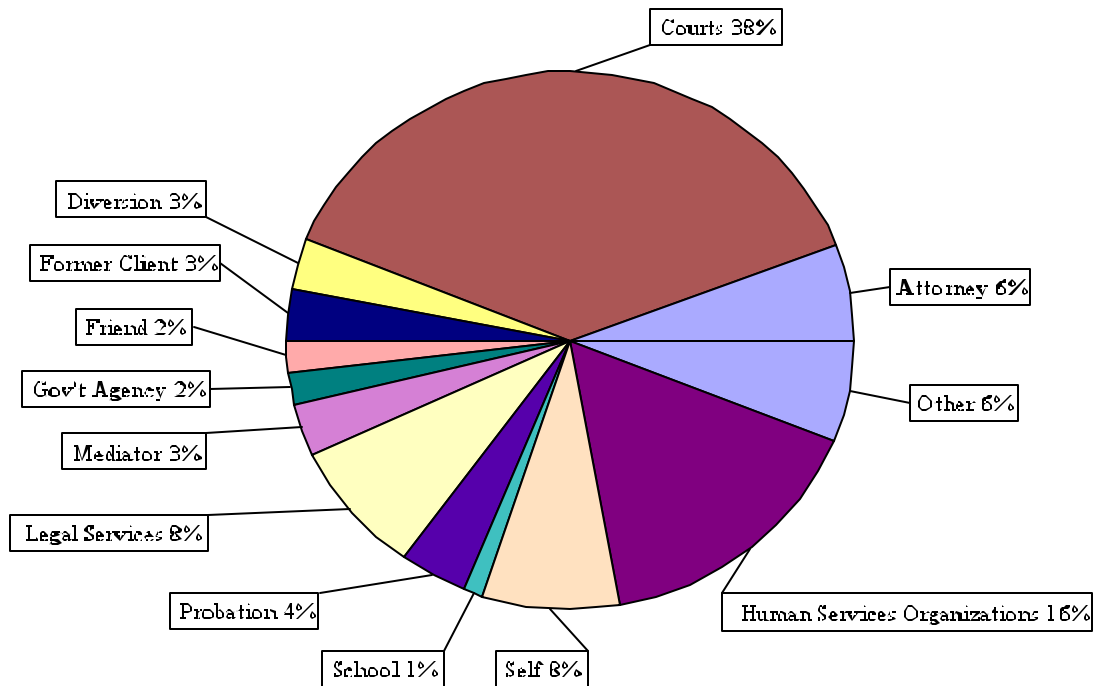
Family cases continue to dominate the overall case level of the centers with community cases (many of which are small claims cases) following in a close second.

Cases by Disposition

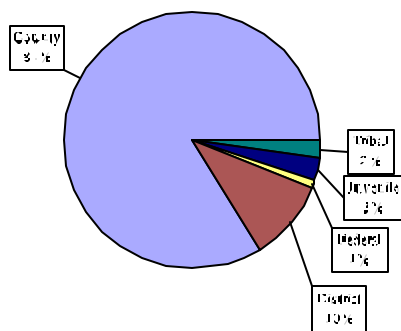


Cases by Disposition include not only newly opened cases, but also cases that were carried over from fiscal year 1999-2000. So, of the total case volume in fiscal year 2000-2001, 626 cases met at the table for mediation. For those cases that met, the centers had a 82% resolution rate (full or partial). 64 cases were resolved prior to the mediation and 110 cases were not able to resolve their conflict.

New Cases by Referral Sources

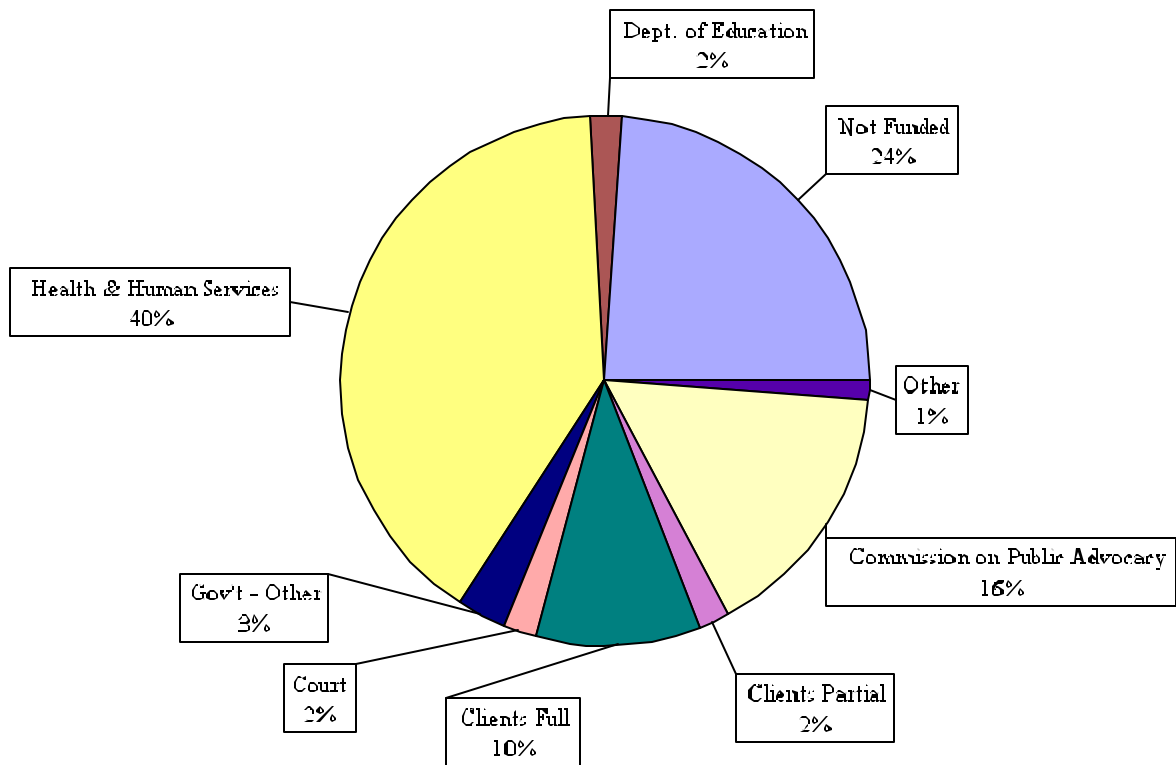


Breakdown of Court Referrals



Of the known referrals, the courts continue to be the single largest source of statewide referrals. However, the entire legal system (courts, attorneys, probation, legal services and diversion) represents 59% of all referrals.

Funding of Cases



(excludes state appropriation)

The centers must annually apply for the state appropriation of \$45,000 per center, this is one of the only funding sources which does not specify exactly how the funds must be spent.

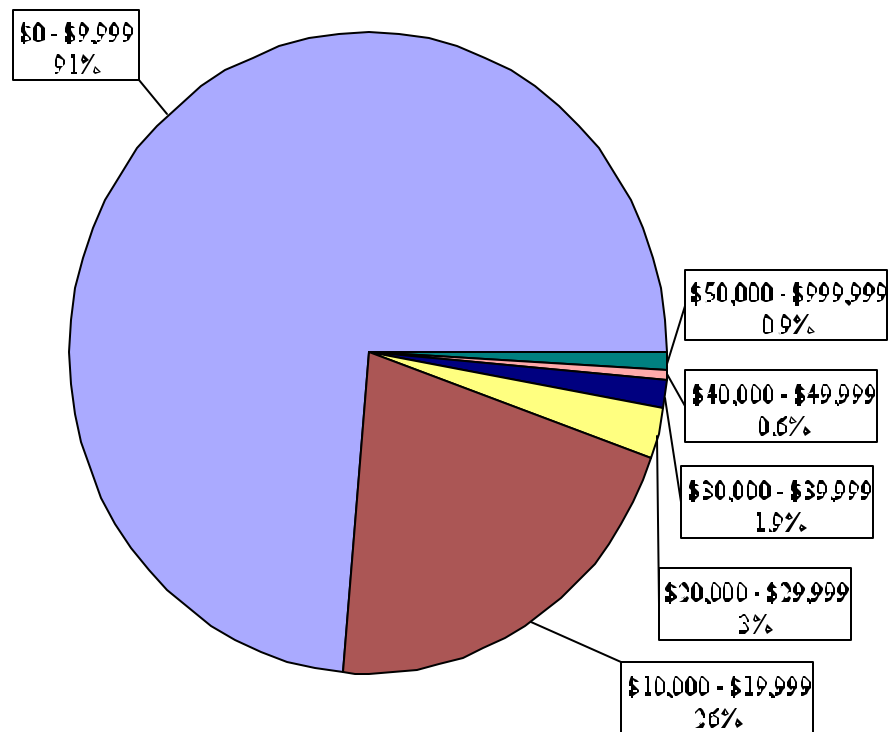
Most contracts or grants that the centers receive to provide funding are specifically tied to be used for a particular case type. Contracts with Health and Human Services represent 40% of this type of funding.

It is important to note that 24% of all cases have no funding. That equates to 350 cases being done for free as a service to Nebraska citizens. In addition, the 10% (142 cases) of clients that did pay for services pay at a substantially lower rate than if those services were received from most attorneys in private practice. Another 37 cases were completed where the parties only partially paid for services.

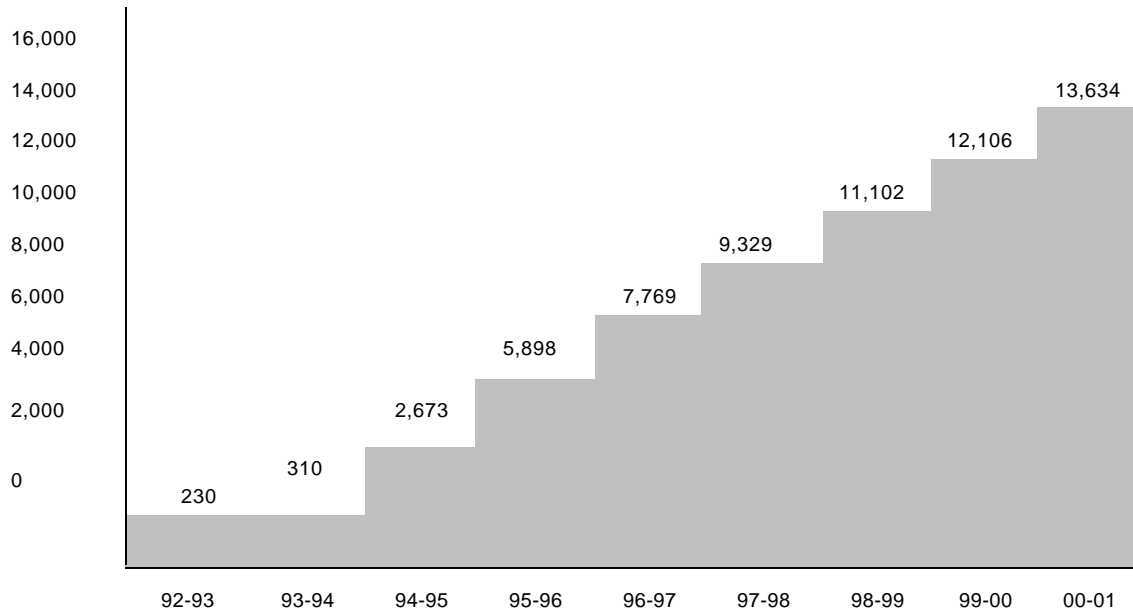
This equates to a substantial savings for the taxpayers of Nebraska. It also provided a peaceful alternative to 52% of the cases (or at least 1,058 individuals).

Client Income

Of the clients who voluntarily agreed to provide information regarding their income, 91% earn under \$10,000 per year.

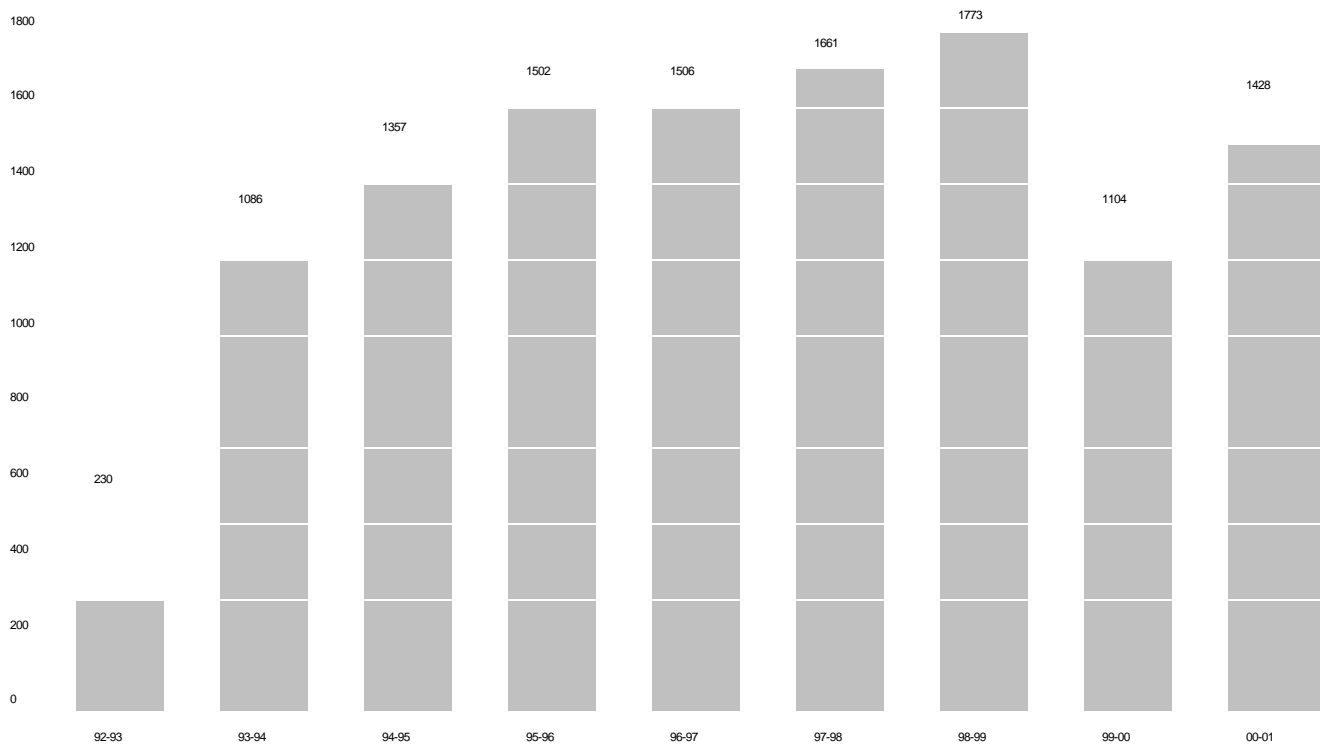


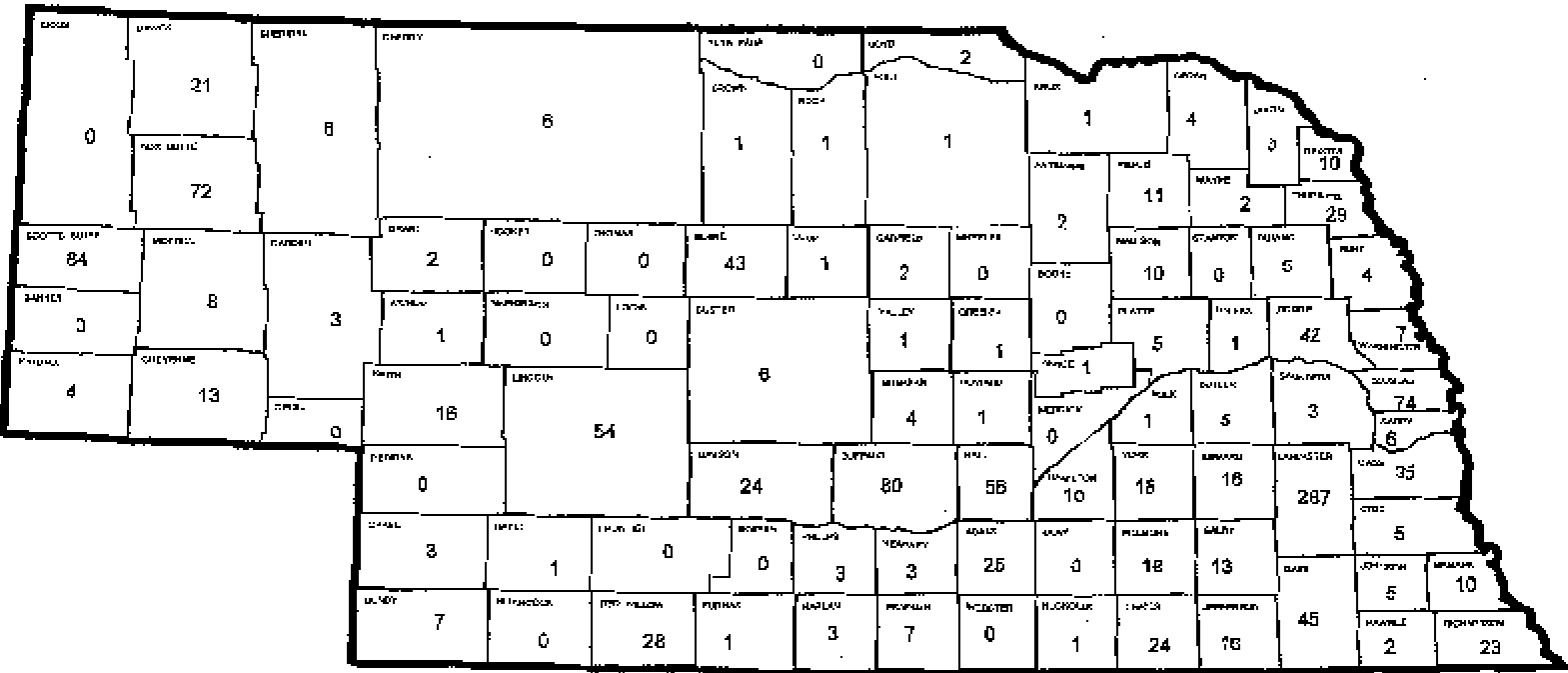
Case Volume: Total Accumulation



After a dip in cases last fiscal year, the mediation centers have increased their total case load to 1,428, with a nine-year total of 13,634 cases.

Case Volume: 9 Year Summary





This map represents the total volume of cases in Nebraska that were handled during FY 2000-2001. The mediation centers continue to expand their resources in order to provide access to services in all counties across Nebraska.

The Office of Dispute Resolution is proud to work with such a dedicated and talented group of peace makers in Nebraska. The members of the Nebraska Mediation Center Association continue to inspire ODR to create opportunities for peaceful resolution to conflict.